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HUMAN RIGHTS COMMITTEE
Sixty-sixth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Concluding Observations of the Human Rights Committee

Poland

1. The Committee considered the fourth periodic report of Poland (CCPR/C/95/Add.8) at its 1764th and 1765th meetings (CCPR/C/SR.1764-1765) held on 19 July 1999 and adopted the following concluding observations at its 1779th meeting (CCPR/C/SR.1779) held on 28 July 1999.

A. Introduction

2. The Committee welcomes the fourth periodic report of Poland (CCPR/C/95/Add.8) and the State party's recently submitted core document (HRI/CORE/1/25/ Ref.1), as well as the explanations given in answer to the written and oral questions put by the members of the Committee. The Committee also appreciates the presence of the substantial delegation which represented various branches of the Government. The Committee furthermore commends the State party for having given wide publicity to the present report and to the work of the Committee.

B. Positive aspects

3. The Committee commends the State party for its ongoing process to bring its legislation in harmony with the provisions of the Covenant. It welcomes the adoption of a new Constitution specifically protecting the fundamental rights of the individual, including rights of persons belonging to ethnic minorities and ensuring the precedence of international agreements over domestic statute law in cases of conflict.

4. The Committee is appreciative of the enactment of a new Code of Criminal Procedure including a new right of appeal by way of cassation, a Penal Executive Code and a new Penal Code, the latter providing for personal accountability for acts of ill-treatment by public officials.

5. The abolition of the death penalty even during war time is welcomed.

6. The Committee notes with satisfaction the ratification by the State party of the Optional Protocol to the Covenant.

7. The Committee welcomes the fact that the Commissioner for Citizens' Rights has a substantial staff and is vested with broad competence, such as (a) recommending remedies for breaches of human rights; (b) the power to file a cassation appeal in the Supreme Court against judicial decisions; and (c) to request the Constitutional Tribunal to verify the conformity of laws with the Constitution and ratified international conventions.

8. The Committee welcomes the presumption in favour of granting bail and requiring a court to refuse it only in limited circumstances.

C. Principal subjects of concern and recommendations

9. The Committee expresses its concern about the absence of any legal mechanism allowing the State party, on a systematic basis, to deal with views of the Committee under the Optional Protocol and to implement them.

10. The Committee reiterates its concern about the numerous forms of discrimination against women, both in the Polish society and in the national legal system. The Committee notes with regret that the State party devoted very limited attention to the issue of gender equality (art. 3) in its fourth periodic report (para. 34), but welcomes the additional information made available by the delegation.

11. The Committee notes with concern: (a) strict laws on abortion which lead to high numbers of clandestine abortions with attendant risks to life and health of women; (b) limited accessibility for women to contraceptives due to high prices and restricted access to suitable prescriptions; (c) the elimination of sexual education from the school curriculum; and (d) the insufficiency of public family planning programmes. (Arts. 3, 6, 9 and 26)

> The State party should introduce policies and programmes promoting full and non-discriminatory access to all methods of family planning and reintroduce sexual education at public schools.

12. The Committee is also concerned about the lack of gender equality (art. 3) in the employment sector. For example, the State party's figures and other information now received show (a) the continuing low numbers of women holding high technical, managerial or political posts and relatively large numbers occupying less well-rewarded positions; (b) average salaries earned by women which amount to only 70 per cent of those earned by men; (c) the lack of equal remuneration for women for work of equal value; and (d) the continued tendency for pregnancy testing by employers.

Further measures should be taken by the State party to counteract these forms of discrimination against women and to promote their equality in political and economic life.

13. The Committee is concerned about the effects of the Polish pension system which results in lower pensions for women by preserving different retirement ages for men (65) and women (60); it notes that the theory of allowing women to retire later than the age of 60, is not reflected in practice; since the amount of the pensions is directly linked to the number of years at work, this leads to lower pensions for women.

Discrimination between retirement ages for men and women should be eliminated (arts. 3 and 26).

14. The Committee acknowledges the State party's efforts to implement a programme against domestic violence but is concerned (a) at the large number of reported cases of such violence; (b) the lack of any protective remedy in the civil courts; and (c) the shortage of provision of hostels and refuges for family members suffering from domestic violence.

Legislation and administrative measures should be put in place to correct such deficiencies. (security of the person, art. 9)

15. The Committee is concerned about the practice of "fala" which persists in the army, whereby new recruits are subjected to abuse and humiliation. (Art. 7)

The State party should adopt firm measures to eradicate this practice.

16. While noting the measures taken by the State party to implement article 10 by improving conditions in the penal system, the Committee remains concerned at the complete inadequacy of cell space per inmate.

The State party should effectively improve facilities for prisoners so as to comply with the Standard Minimum Rules for the Treatment of Prisoners. (Art. 10, para. 1)

17. The Committee is also concerned at the lack of an independent system of supervision for (a) abuses of human rights by police officers; (b) the conditions in penal institutions, including those for juvenile offenders; and (c) complaints of violence or other abuse by members of the Prison Service.

Mechanisms should be established for independent monitoring of these matters in order to protect the rights enshrined in articles 7, 9 and 10 of the Covenant.

18. The Committee expresses the view that the maximum length of pre-trial detention (12 months) and especially the ability to extend this up to another 12 months is incompatible with article 9, paragraph 3.

These periods should be reduced, and in any event persons who have to be detained should be brought to trial within a reasonable time or be released.

19. The Committee notes that figures have been given of the overall numb of advocates and counsellors qualified to act in the courts; it regrets th absence of information about (a) the number of lawyers available to provid free legal aid; and (b) any systems to check the quality of their performa (art. 14 (3)(d)).

20. The Committee is concerned at the excessive delays in criminal and c trials (art. 14 (1) and (3)(c)).

The State party should (1) proceed urgently with the steps in progres to improve the infrastructure so as to reduce delays in all courts; and (2) present in its next report statistics which realistically sho the results of these reforms.

21. The Committee is concerned at information about the extent to which military courts have jurisdiction to try civilians (art. 14); despite recent limitations on this procedure, the Committee does not accept that this practice is justified by the convenience of the military court dealing with every person who may have taken some part in an offence primarily committed a member of the armed forces.

These provisions of the Code of Criminal Procedure should be amended o repealed.

22. As regards telephone tapping, the Committee is concerned (a) that the Prosecutor (without judicial consent) may permit telephone tapping; and (b) that there is no independent monitoring of the use of the entire system tapping telephones.

The State party should review these matters so as to ensure compatibility with article 17, introduce a system of independent monitoring and include in its next report a full description of the system by then in operation.

23. The Committee regrets that the reference to sexual orientation which ha originally been contained in the non-discrimination clause of the draft Constitution has been deleted from the text, which could lead to violations o articles 17 and 26.

24. The Committee is concerned that current mechanisms for monitoring new religious movements may pose a threat to freedom of religion (art. 18).

The State party should include in its next report information on the activities of these mechanisms and their effect on the actual enjoyment of religious freedom on equal terms by members of all denominations in Poland. (Arts. 18 and 26)

25. The Committee welcomes the abolition by law of corporal punishment in schools; it is concerned, however, that this change in the law is not fully being implemented. (Arts. 7 and 24)

D. Dissemination of Information about the Covenant (art. 2)

26. The Committee sets the date for the submission of Poland's fifth periodic report as July 2003. It urges the State party to make available to the public the text of these concluding observations in appropriate languages. It requests that the next periodic report be widely disseminated among the public, including non-governmental organizations operating in Poland.